

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
M. BLOCH & COMPANY, INC.,)
Appellant,)
vs.)
PUGET SOUND AIR POLLUTION)
CONTROL AGENCY,)
Respondent.)

PCHB No. 265

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

The formal hearing on the appeal of M. Bloch & Company, Inc. to a Notice of Civil Penalty of \$50.00 for an alleged open burning violation of respondent's Regulation I came before the Board with members W. A. Gissberg and James T. Sheehy present, W. A. Gissberg presiding, on July 24, 1973 in Seattle, Washington.

Appellant appeared by and through its President, Leo D. Bloch; respondent appeared through its attorney, Keith D. McGoffin.

Having heard the testimony and being fully advised, the Board makes the following

FINDINGS OF FACT

I.

On a rainy December 27th day in 1972 at approximately 1:00 p.m., five fires were observed by respondent's inspector in burn barrels situated throughout the yard of property owned and controlled by appellant. These fires were of scrap lumber, some of which had been painted in previous times.

Appellant is engaged in the scrap iron and metal business and customarily and regularly disposes of its scrap materials in excess of 29 tons per month by depositing the same in an approved garbage disposal site. The fires in the burn barrels were expressly authorized by appellant and it has been appellant's regular practice for some time past to authorize such fires during cold or wet weather in order to provide heat and comfort for its employees. Appellant states that only clean, dry lumber scraps are utilized in such fires. Appellant admitted that it had no burning permit.

II.

Section 9.02 of respondent's Regulation I, as amended, makes it unlawful to cause or allow any outdoor fire in a restricted area. The site of appellant's plant is in a restricted area in Seattle, Washington at 4580 Colorado Avenue South. The fire was otherwise not permitted by respondent's Regulation I.

From which the Board makes the following

CONCLUSIONS OF LAW

I.

Appellant was in violation of Section 9.02 of respondent's Regulation I, as amended, for causing or allowing an outdoor fire.

FINDINGS OF FACT,

CONCLUSIONS AND ORDER

1 Appellant had received a prior Notice of Violation for a similar
2 infraction of respondent's rules on May 14, 1969. At that time, it was
3 appellant's practice to burn debris as well as lumber materials.

4 II.

5 Appellant contends that his open barrel burning practices during
6 periods of inclement weather for the comfort of his employees should be
7 tolerated by the Agency. Such is not countenanced by the Agency's
8 regulations and unless authorized by a variance issued by the Agency,
9 such contention does not constitute a defense to the civil penalty
10 imposed by the Agency upon appellant.

11 From which the Board enters this

12 ORDER

13 The appeal is denied and Notice of Civil Penalty is affirmed.

14 DONE at Lacey, Washington this 25th day of July, 1973.

15 POLLUTION CONTROL HEARINGS BOARD

16 W. A. Gissberg
17 W. A. GISSBERG, Member

18 James T. Sheehy
19 JAMES T. SHEEHY, Member
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